**THE HON'BLE SRI JUSTICE C.V.RAMULU**

W.P.No.2950 of 1998

Dated:28.3.2007

Between
A.Aruna

.....Petitioner

and

1.The University of Health
Science, rep., by its Registrar
Vijayawada and another.

...Respondents

**THE HON'BLE SRI JUSTICE C.V.RAMULU**

W.P.No.2950 of 1998

ORDER:

This writ petition is filed seeking a Mandamus to direct the respondents to regularize the services of the petitioner in the post of Telex Operator sanctioned, from the date of her initial appointment or from the date of advertisement of the post and to pay salary in the regular time scale of pay attached to the post of Telex Operator, revised from time to time including payment of arrears of salary.

It appears that the petitioner was appointed as a Telex Operator with effect from 26.11.1988 on a consolidated monthly salary of Rs.800/-. When her services were not regularized, she filed a WP No.18309 of 1996 before this Court seeking regularization of her

services. Then the respondents came forward stating that the case of the petitioner was being processed for regularization. Therefore, by recording the same, the writ petition was closed on 9.9.1996. According to the petitioner, when similarly placed persons approached this Court by filing W.A.No.1041 of 1996 and batch, the same was dismissed on 11.09.1996 holding as under:

> "Learned single Judge has found good grounds in favour of such employees, who have worked for more than eight years, to seek regularization and accordingly given a direction and observed if their services are not regularized by a specified time limit fixed by the Court, they would be paid for the work done by them salary in the scale of pay admissible for the Assistant Engineers. All that we, on the facts of the instant case, order is that on their entering into the service as Assistant Engineers the writ petitioner-respondents shall receive the pay at the lowest of the scale and shall continue thereafter to receive emoluments in the regular scale of pay, and also that before their services are regularized as repeatedly pointed

> out, if they have entered without undergoing the process of selection, the concerned authorities shall interview them and decide whether they are eligible and fit to be absorbed in the regular service i.e., there shall be some sort of selection, if they are not already selected by any such process."

In fact, the services of those persons were already regularized. It is the case of the petitioner that though the respondents earlier promised before this Court that her case was being processed for regularization of her services, but they rejected her case *vide* proceedings dated 5.7.1997 on the ground that the Government directed to reject her claim as she has not fulfilled the conditions of GOMs.No.212.

It is the case of the petitioner that she was sponsored through Employment Exchange and subjected to selection process. This fact was not disputed by the respondents. The impugned order dated

5.7.1997 reads as under:

> "With reference to the representation cited, Smt A.Aruna, Telephone Operator (Petitioner in WP No.18309 of 1996) is hereby informed that the UHS never made a statement that her case for regularization of services in the cadre of Telex Operator is being processed. In the UHS counter filed in the above W.P. filed by her, it was mentioned that due to suffering from Muscular Disease, she has difficulty to act as Telephone Operator and hence her services are being utilized as Telex Operator and that is why the post of Telex Operator which was notified during October 1992 got de-notified to consider her case for regularization of services in the post of Telex Operator as and when she is eligible as per the rules of the Government. Later the Government have requested to reject her claim as she has not fulfilled the conditions of GOMs.No.212 and accordingly her request was rejected.
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> As such, she has to wait for further orders from the Government in this regard."

From the above, it is clear that the petitioner filed WP No.18309 of 1996 wherein the respondents filed counter stating that she has difficulty to act as Telephone Operator as

she was suffering from Muscular disease, and hence her services were being utilized as Telex Operator and the post of Telex Operator, which was notified during October 1992, got de-notified to consider the case of the petitioner for regularization of her services in the post of Telex Operator. Since the Government requested to reject her claim as she has not fulfilled the conditions of GOMs No.212, her case was rejected. Except this, no other reason has been furnished.

The petitioner was sponsored through Employment Exchange, subjected to Selection process and then appointed against a clear vacancy of Telephone Operator. Even in impugned order, it is stated that the Telex Operator post is vacant and she is working even as on today. The only objection taken by the respondents was that she did not fulfil the conditions laid down in GOMs.No.212 and there is no mention as to which conditions she did not fulfil. Now, the respondents state that

the petitioner has not completed 5 years of service as per the said GO, therefore, she is not entitled for regularization. This plea is no more available in view of the decisions of the Apex Court that completion of five years has to be taken into consideration as on the date of consideration of the case. Admittedly, in this case, the case of the petitioner was processed only in the year 1996, and by that time, she had put in eight years of service.

Therefore, the respondents are directed to consider the case of the petitioner for regularization of her services as per GOMs.No.212, since the petitioner had put in more than 8 years of service as on the date of consideration of her case and as of now she had completed 19 years. This exercise shall be completed within a period of two months from the date of receipt of a copy of this Order. Till such time, the services of the petitioner shall not be disturbed.

Accordingly, the writ petition is disposed

of.

28-03-2007

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